

HUMAN SERVICES DEPARTMENT[441]

Adopted and Filed Emergency

Pursuant to the authority of Iowa Code section 249A.4 and 2010 Iowa Acts, House File 2526, section 7(6), the Department of Human Services amends Chapter 78, “Amount, Duration and Scope of Medical and Remedial Services,” Iowa Administrative Code.

These amendments remove the provisions of the rules that permitted the Department to limit enrollment and establish a waiting list for Medicaid home- and community-based habilitation services. Section 2402 of the Patient Protection and Affordable Care Act, Public Law 111-148, prohibits states from setting limits on the number of people allowed to access home- and community-based service as a state plan service.

Home- and community-based habilitation services have been available in Iowa for nearly four years, and the enrollment limit has never been reached. Eligibility criteria for the program remain unchanged, so there is no reason to anticipate an increase in enrollment as a result of removing the enrollment limit.

These amendments do not provide for waivers in specified situations. Requests for the waiver of any rule may be submitted under the Department’s general rule on exceptions at 441—1.8(17A,217).

The Council on Human Services adopted these amendments on December 8, 2010.

In compliance with Iowa Code section 17A.4(3), the Department finds that notice and public participation are unnecessary because 2010 Iowa Acts, House File 2526, section 7(6), authorizes the Department to adopt emergency rules for the medical assistance program when the amendments are necessary to comply with federal requirements.

The Department finds that these amendments confer a benefit by eliminating the possibility that an applicant for habilitation services will be put on a waiting list for services. Therefore, these amendments are filed pursuant to Iowa Code section 17A.5(2)“b”(2), and the normal effective date of these amendments is waived.

These amendments are intended to implement Iowa Code section 249A.4.

These amendments shall become effective on January 1, 2011.

The following amendments are adopted.

ITEM 1. Rescind subrule 78.27(3) and adopt the following **new** subrule in lieu thereof:

78.27(3) Application for services. The case manager shall apply for services on behalf of a member by entering a program request for habilitation services in ISIS. The department shall issue a notice of decision to the applicant when financial eligibility, determination of needs-based eligibility, and approval of the service plan have been completed.

ITEM 2. Rescind and reserve subparagraph **78.27(11)“a”(1)**.

[Filed Emergency 12/8/10, effective 1/1/11]

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EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 12/29/10.